

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE DISTRICT OF SOUTH CAROLINA

Daniel Brown, #341265,)	Civil Action No.: 4:14-357-BHH
)	
Plaintiff,)	
)	
vs.)	
)	
Warden Willie Eagleton and E.)	ORDER AND OPINION
Heyward,)	
)	
Defendants.)	
)	

The plaintiff Daniel Brown (“the plaintiff”), proceeding *pro se*, filed this civil rights action pursuant to 42 U.S.C. § 1983 alleging violations of his constitutional rights. (ECF No. 1.) Plaintiff also filed a Motion for Default Judgment as to Warden Willie Eagleton and E. Heyward (“the defendants”) (ECF No. 34) and a motion for discovery (ECF No. 41). Defendants filed responses in opposition. (ECF Nos. 35, 49.)

In accordance with 28 U.S.C. § 636(b)(1) and Local Civil Rule 73.02 D.S.C., this matter was referred to United States Magistrate Judge Thomas E. Rogers, III, for pretrial handling. On November 21, 2014, Magistrate Judge Rogers issued a Report and Recommendation recommending that the court deny both of Plaintiff’s motions. (ECF No. 67.) The Magistrate Judge concluded that the defendants were not in default, and the plaintiff’s request for discovery was not properly before the Court.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with this court. See *Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). The court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the Magistrate Judge. 28 U.S.C. § 636(b)(1). The court may

also receive further evidence or recommit the matter to the Magistrate Judge with instructions. *Id.* The court is charged with making a *de novo* determination of those portions of the Report and Recommendation to which specific objections are made. On November 21, 2014, Plaintiff was advised of his right to file objections to the Report and Recommendation. (ECF No. 67-1). However, the plaintiff has not file any objections, and the time to do so expired on December 8, 2014. In the absence of a timely filed objection, a district court need not conduct a *de novo* review, but instead must "only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005).

After a careful review of the record, the applicable law, and the Report and Recommendation, the court finds the Magistrate Judge's recommendation to be proper. Accordingly, the Report and Recommendation is approved and incorporated herein by reference. Plaintiff's motions for entry of default (ECF No. 34) and for discovery (ECF No. 41) are DENIED.

IT IS SO ORDERED.

/s/Bruce Howe Hendricks
United States District Judge

December 10, 2014
Greenville, South Carolina